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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Written statement submitted by the International Indian Treaty Council, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[3 April 1996]

1. The International Indian Treaty Council addresses this agenda item with great concern for all indigenous peoples who are imprisoned for their defence of their peoples and their human rights. With more frequency and, indeed, with greater impunity, defenders of indigenous human rights, communities, religion and cultural values are persecuted and criminalized.

2. We note with great sadness the execution of Ken Saro-Wiwa by the Nigerian Government. We had some hopes for the observance of human rights with regard to this case when we addressed his imprisonment under this agenda item at the last session of this Commission. But on 10 November, Ken Saro-Wiwa and eight other Ogoni activists were executed shortly after trial before a special civil disturbances tribunal.

3. At least 19 more Ogoni activists now face identical charges as did Ken Saro-Wiwa. Due to be tried before a special civil disturbances tribunal outside the normal judicial process, there exist justifiable fears that the 19 could be unfairly tried, sentenced to death and executed without right of appeal to a higher court, just as in the case of Ken Saro-Wiwa. The Ogoni detainees have been held in harsh and unsanitary conditions in military custody and denied all proper medical treatment. This situation appears to have contributed to the death of a co-detainee, Clement Tusima, on or around 14 August 1995, apparently after months of medical neglect. Conditions in Nigeria's prisons are very poor, with high rates of malnutrition, disease and death from unsanitary conditions, inadequate food and practically no medical care.

4. We urge the Nigerian Government to release these defendants or to ensure that they be tried promptly and fairly with full rights of defence and without imposition of the death penalty. We would join with other human rights organizations in seeking assurances that the prisoners are being safeguarded from ill-treatment and health-threatening prison conditions and are being granted full access to lawyers, medical care and family visits.

5. We address the human rights of indigenous peoples detained in the Canadian province of British Columbia, as a result of the Shuswap occupation of traditional indigenous lands, occupied in order to practise their religion. The Shuswap Nation, attempting to defend their unceded, sacred Sundance grounds from the defecation of cattle, built a fence around their sacred grounds. An elder caring for those grounds was attacked by a band of cowboys, and the fence destroyed. A group of Sundancers sent to defend the grounds was surrounded by provincial police, the Royal Canadian Mounted Police and the Canadian army. This large and heavily armed governmental force set off land-mines, flares and explosions, and shot at and wounded some defenders. Federal and provincial military and police forces acted in a totally disproportionate and unjustifiable show of force meant only to intimidate the Shuswap men and women defending their right to practise their religion. Twenty-three Ts'peten Sundancers were arrested. Twenty-three defenders now face criminal charges, and two, William Jones Ignace and his son, JoJo Ignace, remain in custody. JoJo Ignace has been subjected to physical beatings and abuse.

6. These are not isolated abuses in Canada, where indigenous peoples have been arrested and face criminal charges for defending their lands. We cite as additional examples the Nuxalk Peoples, who last fall occupied Ista (Fog Creek) and King Island, to defend their lands from loggers. In the words of one woman defender, the Shuswap "... have borne witness to the relentless destruction of the land and the ongoing oppression of indigenous peoples". Fourteen Nuxalk defenders were arrested and now face criminal charges for attempting peacefully to defend their forests and sacred lands. Initially allowed bail, those arrested included three hereditary chiefs, Hereditary Chief Nuximlaye (Lawrence Pootlass), Hereditary Chief Qwatsinas (Edward Moody) and Hereditary Chief Slicxwliqw (Charles Nelson). During the arrests, traditional structures were destroyed in the presence of the Royal Canadian Mounted Police, an arm of the federal Canadian Government.

7. On Thursday, 21 March 1996 at 7 a.m., the Royal Canadian Mounted Police began raiding Nuxalk Nation territory, invading homes and rearrested some 22 of these defenders of Ista indigenous lands, without search warrants and even broke down Councillor Derrick Snow's door. They are now being detained without bail, except for one 17-year-old boy. According to Hereditary Chief Slicxwliqw (Charlie Nelson), "It is our land, and we have a right and an obligation to protect it, and no one can deny us that right." Canada considers this a "domestic" matter, yet cannot show any extinguishment papers for the Nuxalk lands or their sovereignty.

8. We call upon the Canadian Government to recognize its federal responsibility for the human rights and fundamental freedoms of the indigenous peoples of Canada. These and other incidents are not "provincial concerns", as the Canadian Government would claim, but human rights concerns that Canada, as a State Member of the United Nations and signatory to international human rights conventions, has sworn to recognize and observe.

9. In the United States, we address the case of Norma Jean Croy, convicted of aiding her brother, Hooty Croy, in a crime of which he was found innocent. Norma Jean Croy was denied parole at her last hearing, on 20 March 1996, "because of the seriousness of her offence", among other grounds. But if Hooty Croy, whom she supposedly aided in the shooting of a police officer, was declared innocent and justified by self-defence, how can her aid be an offence, much less a "serious offence"? She is not guilty of any crime, yet all State appeals in her case have been exhausted, and she remains in prison. The federal court has recently begun to review her petition for a new trial, and has set a date for an evidentiary hearing. We call upon the United States to do justice in this case and cease its persecution of this innocent indigenous woman.

10. Few, if any, States where indigenous peoples have lived since time immemorial have clean hands when it comes to the arrest and detention and persecution of indigenous peoples who courageously defend their sovereignty, lands, cultures and religion. The Universal Declaration of Human Rights may be the most basic understanding all Member States have with regard to human rights. We call upon Nigeria, Canada and the United States and all other of these Member States to begin to observe it with regard to indigenous peoples.